

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL E. CLARK,

Plaintiff,

vs.

JOHN THOMAS,

Defendant.

Case No. 2:09-cv-2272-GMN-GWF

ORDER

This matter comes before the Court on Plaintiff's Motion for a Request for a Court Order for Discovery Document (#41) and Motion to Stay Pending Ruling on Motion for Request for a Court Order (#41) (#42), filed on October 24, 2011 and Defendant's response to Plaintiff's Motion for Discovery (#45), filed on November 1, 2011. Plaintiff requests the Court order Defendant to disclose the Inspector General's investigative report (the Report) concerning the alleged assault forming the basis of Plaintiff's complaint. In response, Defendant submitted the Report under seal as Exhibit A for in camera review. Defendant, who is a former employee of the NDOC, does not oppose disclosure of the Report. However, the NDOC maintains that the report is confidential and may not be disclosed without a court order pursuant to NAC § 284.718(j) and NAC § 284.726(f).

The Court has reviewed the Report and finds that it should be disclosed to Plaintiff. The Report is relevant to this case as it details the investigation the NDOC conducted of the assault alleged in Plaintiff's complaint. Specifically, the Report identifies the evidence relied upon by the NDOC and outlines their investigation notes. Any privacy interest the Defendant may have in this kind of professional investigatory report is minimal because the Report does not contain the kind of "highly personal" information warranting constitutional safeguard. *See Whalen v. Roe*, 429 U.S.

1 589, 598–600 (1977); *see also* *Nixon v. Administrator of General Services*, 433 U.S. 425, 457
2 (1977) (public official’s privacy interest is in “matters of personal life unrelated to any acts done by
3 them in their public capacity”). Instead, this report outlines the investigation conducted of
4 Defendant’s behavior when he was acting in his official capacity as a correctional officer. The
5 Court will therefore grant Plaintiff’s request and order Defendant to disclose the Report to Plaintiff.
6 Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for a Request for a Court Order for
8 Discovery Document (#41) is **granted**. Defendant shall disclose the Attorney General
9 investigatory report submitted for in camera review as Exhibit A to Plaintiff no later than
10 **December 1, 2011**.

11 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to Stay Pending Ruling on Motion
12 for Request for a Court Order (#41) (#42) is **denied**.

13 DATED this 9th day of November, 2011.

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16 GEORGE FOLEY, JR.
17 United States Magistrate Judge
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